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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

95-172
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JUL 10 1991

In re Application of

RAINBOW BROADCASTING COMPANY

For Extension of
Construction Permit

TO: Roy J. Stewart, Chief
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

File No. BMPCT-910625KP

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JUL 11 1991

VIDEO SERVICES

INFORMAL OBJECTION

1. Pursuant to Section 73.3587 of the Commission's Rules, Press Television Corporation ("Press") hereby objects to the above-captioned application for the reasons previously stated in Press' Petition for Reconsideration, filed February 25, 1991 (and supplemented June 19, 1991), of the grant of the application (File No. BMPCT-910125KE) of Rainbow Broadcasting Company ("Rainbow") for extension of construction permit.

2. To the best of Press' knowledge no action has yet been taken on Press' Petition for Reconsideration. The substantive factors set forth in that Petition continue to warrant reconsideration of the earlier grant and, a fortiori, denial of the above-captioned application for yet a further extension. Accordingly, Press hereby incorporates by reference herein all of its pending Petition for Reconsideration (as supplemented). ^{1/} To the best of Press' knowledge all of the

^{1/} Since copies of the Petition for Reconsideration have already been filed with the Commission, no additional copies are being attached hereto in order to minimize unnecessary paper use. Of
(continued...)

factual and legal matters which are addressed in Press' Petition for Reconsideration (as supplemented) are still valid, relevant and material considerations which warrant the cancellation of Rainbow's construction permit or, at a minimum, designation of Rainbow's extension application for hearing.

3. Not surprisingly, Rainbow's above-captioned application does nothing to address the serious questions which Press has previously raised about Rainbow's qualifications. To the contrary, Rainbow's most recent application aggravates those questions. For example, Rainbow again claims, without explanation, that some "dispute" with its tower owner has heretofore delayed construction. But Press has previously demonstrated that that simply is not true. Contrary to Rainbow's terse and undetailed claim, the "dispute" between Rainbow and its tower owner did not in any way preclude Rainbow from commencing, or completing, construction. The fact that Rainbow continues to advance demonstrably inaccurate representations to the Commission raises serious questions about its truthfulness and candor.

4. In an apparent effort to create the impression that, finally, after holding the construction permit for six years, Rainbow may at long last be commencing construction, Rainbow states in its current application that it has "notified the tower owner of [Rainbow's] intention to commence

^{1/}(...continued)
course, if the provision of additional copies of the Petition would be helpful, Press will gladly supply copies on request.

construction". Rainbow Application, Exhibit 1, page 2.^{2/} That letter notification, however, represents the totality of Rainbow's construction "effort". Rainbow has not ordered any equipment or, apparently, taken any other steps toward construction, despite the fact that Rainbow was already under an August 5, 1991 deadline, imposed by the Commission in response to Rainbow's last extension application, for the completion of construction. Thus, Rainbow has yet again failed to make the showing required by the Commission's rules for a construction permit extension. See, e.g., Section 73.3534(b).

5. Rainbow has also failed to advise the Commission fully concerning the disposition of the "dispute" between Rainbow and its tower owner. Rather, all Rainbow states is that "a motion for preliminary injunction was denied by the court". Rainbow Application, Exhibit 1, page 2. In its June 19, 1991 Supplement to its Petition for Reconsideration, Press provided the Commission with a complete copy of the opinion of U.S. District Judge Stanley Marcus in that case. As Press pointed out in its June 19 Supplement, Judge Marcus' opinion includes findings and conclusions which raise substantial and material

^{2/} According to Rainbow, it sent its letter notification to the tower owner "immediately upon denial of the preliminary injunction request" in the "dispute" between Rainbow and the tower owner. Rainbow Application, Exhibit 1, page 2 (emphasis added). But the preliminary injunction was actually denied on June 6, 1991, while Rainbow's letter to the tower owner is dated June 18, 1991. A two-week delay between the opinion and the letter does not appear to Press to support Rainbow's use of the word "immediately". This is especially true in view of the fact that Rainbow had not been precluded by its pending litigation against the tower company from sending the letter months, or even years, ago.

questions concerning, at a minimum, Rainbow's financial qualifications, as well as its truth and candor. These matters are addressed in Press' Petition for Reconsideration, as supplemented, and need not be repeated at length here.

6. The long and the short of this situation is that Rainbow has held its permit for years and has done nothing to construct its station. When forced to request an extension of its permit, Rainbow has relied on statements which, at the very least, are completely unforthcoming, if not blatantly untrue. Moreover, despite the findings of a Federal District Judge to the contrary, and despite its own representations to that Judge, Rainbow continues to affirmatively maintain to the Commission that Rainbow has made arrangements for financing its construction and that it is intent upon moving forward with construction.^{3/} The totality of the available evidence raises substantial and material questions about Rainbow's qualifications to remain a permittee. Thus, even if the mere sending of a single letter may be deemed to satisfy the standards of Section 73.3534(b) -- and Press emphasizes that Press does not believe that it satisfies those standards -- Rainbow's application cannot in any event be granted until these other, more basic questions about its qualifications are resolved.

^{3/} Curiously, Rainbow indicates in its application that it plans to commence operation by December 31, 1992. In other words, notwithstanding any deadline which the Commission may impose, Rainbow believes that it can select its own construction deadline. It should be noted that Rainbow's chosen deadline is more than seven years after Rainbow's initial grant of the construction permit.

WHEREFORE, for the reasons stated above and in its Petition for Reconsideration, as supplemented, Press Television Corporation objects to any favorable action on the above-captioned application, and urges instead that that application be denied or, at a minimum, designated for hearing.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

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July 10, 1991

CERTIFICATE OF SERVICE

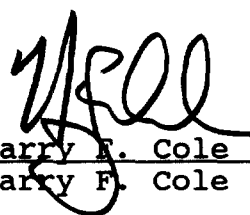
I, Harry F. Cole, hereby certify that on this 10th day of July, 1991, I have caused copies of the foregoing "Informal Objection" to be placed in the United States mail, first class postage prepaid, addressed to the following individuals:

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